

VZCZCXRO0295  
PP RUEH DU RUEHMR RUEHRN  
DE RUEHDR #1267/01 2611046  
ZNY CCCCC ZZH  
P 181046Z SEP 07  
FM AMEMBASSY DAR ES SALAAM  
TO RUEHC/SECSTATE WASHDC PRIORITY 6777  
INFO RUCNSAD/SOUTHERN AF DEVELOPMENT COMMUNITY COLLECTIVE PRIORITY  
RUEHJB/AMEMBASSY BUJUMBURA PRIORITY 2584  
RUEHKM/AMEMBASSY KAMPALA PRIORITY 3069  
RUEHLGB/AMEMBASSY KIGALI PRIORITY 1017  
RUEHLO/AMEMBASSY LONDON PRIORITY 0338  
RUEHNR/AMEMBASSY NAIROBI PRIORITY 0786  
RUEHFR/AMEMBASSY PARIS PRIORITY 0246

C O N F I D E N T I A L SECTION 01 OF 03 DAR ES SALAAM 001267

SIPDIS

SIPDIS

DEPT FOR AF/E RMEYERS, AF/RSA FOR MHARPOLE  
PASS TO DRL FOR FCRUMP  
AID WASHINGTON FOR AF OFFICE

E.O. 12958: DECL: 09/17/2017

TAGS: [PHUM](#) [PREL](#) [PGOV](#) [EAIDEGZ](#) [TZ](#)

SUBJECT: TANZANIA: DEMOCRATIC PROCESS STUMBLES IN PARLIAMENT

Classified By: Deputy Chief of Mission D. Purnell Delly for reasons 1.4 (b) and (d).

#### Summary

11. (C) In response to his questioning of an opaque and irregular mining industry deal made by the Government of Tanzania (GOT), a popular Member of Parliament from the opposition CHADEMA party was recently suspended from participating in parliamentary sessions for four months. The blatant overstepping of parliamentary rules by the majority CCM party backfired, resulting in public outcry across the country. The episode is indicative of the GOT's continuing problems with corruption, efforts to conceal corrupt activities, public frustration at perceived strong-arming by CCM, and the opposition's limited ability to counter the majority party. End summary.

#### Background: The Buzwagi Gold Deal

12. (SBU) The Tanzanian mining industry (primarily gold mining) has come under intense criticism in recent years, leading President Kikwete to direct a review of the GOT's deals with mining companies during his December 30, 2005 inaugural address. Government and industry practices are complicated by a Byzantine system of regulations, including tax, transparency, and environmental rules that many GOT officials are unable to decipher.

13. (SBU) In this context, Minister of Energy and Minerals Nazir Karamagi flew to London in February 2007 on behalf of the GOT to sign a contract with Barrick Tanzania (a subsidiary of Barrick Gold Corporation of Canada) to allow Barrick to develop a gold mining project in Buzwagi (northern Tanzania). The signing of this contract was secretive and marked by irregularities. For example, at the insistence of Minister Karamagi, the contract was signed in a London hotel as opposed to the Tanzania High Commission, and the text of the contract has never been made public. It remains unclear whether any laws were broken by the Ministry or Barrick in the course of the deal. However, the scrutiny applied to the deal by opposition political parties, local media, and various civil groups, combined with the GOT's overreaction to this scrutiny, has now developed into a political maelstrom in its own right.

#### Zitto's Claims in Parliament

14. (SBU) On July 17, Honorable Kabwe Zitto, Member of

Parliament for Kigoma North district (DOB: Sept 24, 1976), initiated a debate on the Buzwagi deal in Parliament. Zitto is a young, popular, outspoken member of the CHADEMA party. Zitto criticized the deal, specifically questioning how a particular section of the Income Tax Law of 1973 was being applied to Barrick, why the contract had been signed at a hotel in London, and why any contract had been signed at all during a period when the government was ostensibly reviewing international mining contracts following the President's directive of December 2005. During the ensuing debate, Minister Karamagi defended his actions and those of his Ministry. After Karamagi's address, Zitto stated that Karamagi had not told the truth regarding the revision of the Income Tax Law of 1973 and its application to Barrick, and filed a Notice of Intention to bring a private motion to investigate the circumstances under which the deal was made.

¶5. (SBU) Note: On August 24, East Africa Law Society Secretary General Alute Mughwai, who has followed the matter

SIPDIS

and been quoted at length discussing it in the press, told PolOff that based on Parliamentary transcripts, neither Zitto nor Karamagi appeared to fully understand the legal issues they debated on July 17. However, according to Mughwai, Zitto's motion was tabled in accordance with the standing orders of Parliament. End Note.

¶6. (SBU) A month later, on August 14, Honorable Zitto made a motion to investigate the Buzwagi deal, following up on his earlier Notice of Intention. From the floor, he questioned the tax treatment of Barrick, the secretive signing in London, the absence of environmental impact assessments, and the absence of advice from the Mining Advisory Committee prior to the signing. Zitto's motion to form a probe of the

DAR ES SAL 00001267 002 OF 003

deal was debated at length, and was rejected by Parliament in a vote along strict party lines with all Members of Parliament from the four opposition parties voting for the probe, all CCM members against.

CCM Response: Suspend Zitto

¶7. (SBU) Following the rejection of Zitto's motion, Mudhihir Mudhihir, a CCM Member of Parliament, moved that Zitto be penalized for making unsubstantiated statements to Parliament and slandering Karamagi during his statements on July 17. The motion passed, again along strict party lines, with the result that Zitto was suspended from Parliament for a period of four months.

¶8. (C) In an August 21 meeting, Member of Parliament and CHADEMA Secretary General Wilbrod Slaa told PolCouns that Mudhihir had attempted to make this motion several times during the August 14 debate on Zitto's motion, but that the Speaker of Parliament Samuel Sitta (CCM) had not granted him the floor. According to Slaa, at one point Sitta told Mudhihir, "It is not yet time for that," leading the opposition to believe that the entire episode to suspend Zitto had been plotted ahead of time within the CCM leadership.

Public Outcry, Threats Ensur

¶9. (SBU) The combination of Zitto's popularity and reputation as a respected critic of the administration, the severity of the punishment, and the perceived injustice both to Zitto and his constituents led to an immediate media frenzy. Within a week, numerous civil society groups had issued statements condemning Parliament's action. The East Africa Law Society (EALS) released a statement saying that the punishment was undemocratic and contravened Parliament's standing orders. In a conversation with PolOff, EALS Secretary General Mughwai stated that the suspension was illegal, and likely unconstitutional as well. Civil society groups held

demonstrations in Dar es Salaam and across the country showing support for Honorable Zitto, and called for the immediate resignation of Speaker of Parliament Samuel Sitta. In a full page editorial in the August 24 "Citizen" newspaper, Professor Issa Shivji (retired professor of law at the University of Dar es Salaam and considered by many to be the country's foremost legal scholar) offered scathing criticism of the ruling party and provided detailed, technical criticism of the majority's claims to legality in its actions.

#### Punishment Overstepped Parliamentary Rules

¶10. (SBU) As a technical matter, the Standing Orders of Parliament do allow for punishment of a member who lies or slanders another member. However, for such punishment to occur, the member must be accused at the time he makes the statement in question, and he must be given an opportunity to prove that the statement is not a lie. A variety of lesser punishments are provided for in the rules, including suspensions of one, five, and twenty days. For third time offenders (which Zitto was not), stiffer punishment is allowed. In its suspension of Honorable Zitto, the majority relied on a provision in the rules that allows Parliament to dictate any punishment it chooses for severe infractions. The majority ignored the rule that even in severe cases, the accused must be given an opportunity to prove that his statements were in fact true.

¶11. (SBU) In response to the public outcry, Speaker Sitta, the Deputy Speaker, and the Clerk to the Assembly (all CCM officials) released no less than six statements forcefully proclaiming the legality of Parliament's action. One statement of the Clerk to the Assembly, Damian Koka, went so far as to warn "the so-called activists" who had protested Parliament's suspension of Zitto that "their words aim at misleading the public on Parliament's decision," and claiming that as such, they violated the Law of Parliamentary Privileges, Ethics and Powers. The Clerk added that Parliament would not hesitate to take legal action against any individual who violated this law.

Warning to Hon. Zitto: Watch your step

DAR ES SAL 00001267 003 OF 003

¶12. (SBU) Since his suspension from Parliament, Kabwe Zitto has embarked on a national tour to explain and rally support for his case, promote government accountability, and campaign against those members who engineered his suspension. As of September 7, national and regional police issued a warning to Zitto and others to refrain from "issuing statements that threaten law and order" and announced that they were launching an investigation of all Zitto's recent activities and statements.

#### Comment

¶13. (C) In imposing an unusually harsh punishment on a young, popular MP for his questioning of suspicious government activities, the CCM majority clearly underestimated the Tanzanian public's frustration with both perceived corruption on the part of GOT officials and the high-handed tactics the ruling party has used to silence criticism of such officials. While it remains unclear whether any laws were broken in the signing of the Barrick contract, the deal has now become synonymous with the scandals that have plagued the energy sector in Tanzania. The CCM majority's actions in Parliament constituted a blatant abuse of power and a threat to the democratic process, and CCM is suffering politically from the miscalculation.

¶14. (C) CCM's saving grace in this instance has been the poor handling of a golden political opportunity by the young Kabwe Zitto and his CHADEMA party. Instead of taking a cautious approach, gaining public sympathy and playing the role of

reluctant martyr, Zitto has engaged on a poorly conceived campaign to "teach a lesson" to the CCM majority - a goal he has little chance of accomplishing. It remains to be seen whether the opposition will be able to harness the public outrage that his suspension created to effect any real change.

GREEN